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700 13th Street, NW
Suite 600
Washington, D.C. 20005-3960

① +1.202.654.6200
② +1.202.654.6211
PerkinsCoie.com

October 2, 2015

Brian G. Svoboda
BSvoboda@perkinscoie.com
D +1.202.434.1654
F +1.202.654.9150

BY HAND

Federal Election Commission
Office of Complaints Examination & Legal Administration
Attn: Mary Beth deBeau
999 E Street, N.W.
Washington, DC 20436

Re: RR 15L-27
Put Alaska First and Jim Lottsfeldt, in his official capacity as treasurer

Dear Ms. deBeau:

As counsel to Put Alaska First and Jim Lottsfeldt, in his official capacity as treasurer (collectively, "the Committee"), I write in response to the Commission's letter dated July 27, 2015. The Committee appreciates the additional time provided to respond. Because the matter involves the omission of a lone transaction, self-corrected by a Committee that now seeks termination, the Commission should take no further action and close the matter.

The Committee registered with the Commission on May 2, 2013, as an Independent Expenditure-Only Committee. *See* Statement of Organization, *available at*, <http://docquery.fec.gov/pdf/303/13031064303/13031064303.pdf>. After engaging in substantial activity during the 2014 election cycle, the Committee effectively concluded its activities. Its most recent report, filed on July 27, 2015, showed no debts or obligations and \$149.50 cash-on-hand. *See* 2015 Mid-Year Report, *available at*, <http://docquery.fec.gov/pdf/262/201507279000428262/201507279000428262.pdf>. This referral is the only impediment to the Committee's termination. To our knowledge, there are no other enforcement actions pending against the Committee.

The referral arose from a lone transaction: a \$440,000 contribution from another political committee. Because the contribution was received by wire transfer near the close-of-books for the 2014 12-Day Pre-Primary Report, because the Committee lacked a trained accountant with prior experience in bank reconciliations, and because the Committee was otherwise engaged in intense activity in the final stages of the election cycle, the contribution was initially omitted. The Committee identified the discrepancy on its own initiative through later reconciliation and amended its report on January 26, 2015 to disclose the contribution. *See* Amended 2015 Year-End Report, *available at*, <http://docquery.fec.gov/pdf/546/15970048546/15970048546.pdf>. The

amended report drew a Request for Additional Information from the Reports Analysis Division, to which the Committee timely responded, and then the instant referral.

The Commission should close the file and take no further action. First, as noted above, the matter involves the omission of a single receipt under an unusual set of circumstances, corrected on its own initiative by a Committee that is now effectively defunct and seeks termination. Second, the omission of this one receipt does not automatically compel a finding that the Committee may have violated the Act. *See Lovely v. FEC*, 307 F.Supp. 2d 294, 300 (D. Mass. 2004). While the Committee's disclosure reports must disclose its total receipts during each period, its report is nonetheless considered to be in compliance when the treasurer had used best efforts to obtain, maintain and submit the required information. *See* 52 U.S.C. §§ 30104(b)(2), (i) (2015).

Finally, even if the report were not in compliance, it is doubtful the Commission could obtain penalties in court to remedy it. A court would have to consider (1) the respondent's good or bad faith; (2) the injury to the public; (3) the defendant's ability to pay, and (4) the need to vindicate the Commission's authority. *See FEC v. Furgatch*, 869 F.2d 1256, 1258 (9th Cir. 1989). *Accord FEC v. Friends of Jane Harman*, 59 F. Supp.2d 1046, 1058 (C.D. Cal 1999). There is no allegation or basis for a finding of bad faith. Any injury to the public was mitigated by the fact that the donor was a federally-reporting political committee that had given on multiple occasions to the Committee. The Committee is defunct and showed \$149.50 cash-on-hand on its most recent FEC report. Finally, the FEC's Chair has publicly said that "[t]he likelihood of the laws being enforced is slim" during the 2016 election cycle. *See* Eric Lichtblau, *F.E.C. Can't Curb 2016 Election Abuse, Commission Chief Says*, N.Y. TIMES, May 2, 2015. None of the factors supporting a civil penalty would be met in this case.

As noted above, the Committee seeks to terminate and would be eager to resolve this matter in a way that would facilitate prompt termination. The Commission should avoid a costly process that would devote limited public resources to punishing a committee with no remaining resources of its own, over a one-time, good-faith error that the Committee corrected itself on its own initiative. We respectfully request the Commission to close the matter and take no further action.

Very truly yours,



Brian G. Svoboda
Counsel to Put Alaska First and Jim Lottsfeldt, in his official capacity as treasurer